

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**FRANKLIN CONSTRUCTION GROUP, LLC,**

Plaintiff,

v.

**WILLIAM SHORE, JWSC, LLC, KEITH MEADOWS,  
JOSEPH HEATH, HYDS INC., DEAN BINGHAM,  
LUNDON JOHNSON, TYLER WEBER,  
JOEL CHEVRETTE, DANNY KNOWLES, SCOTT  
MATTHEWS and LOWE’S HOME CENTERS, LLC**

Defendants.

Case No. 3:24-cv-01255

District Judge Crenshaw  
Magistrate Judge Frensey

**JURY DEMAND**

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**DEFENDANT SCOTT MATTHEWS’ MOTION TO DISMISS**

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Defendant, Scott Matthews (“Matthews”), by and through the undersigned counsel, pursuant to Rules 9(b) and 12(b)(6) of the *Federal Rules of Civil Procedure* and applicable law, hereby files with the Court his Motion to Dismiss as follows:

1. Plaintiff, Franklin Construction Group, LLC (“FCG”), filed its Complaint [Doc. 1] against Matthews and various other Defendants on October 21, 2024.

2. In the Complaint, FCG seeks damages for what is alleged to be an elaborate fraud scheme, concocted by Defendant William Shore (“Shore”), to defraud FCG out of millions of dollars. (see generally, *Complaint*).

3. Moreover, Plaintiff further alleges – albeit in broad and conclusory terms – that Shore conspired with Defendants to funnel money from FCG to himself; and that the “Lowe’s Individual Defendants,” which allegedly includes Matthews, were complicit in artificially inflating

the price of materials and diverting materials to Shore's side projects, all while invoicing FCG for the same. (*Complaint*, ¶ 2-5).

4. FCG's Complaint includes various claims and causes of action, to include but not limited to alleged violations of the Racketeer Influenced and Corrupt Organizations Act ("RICO"), conspiracy, fraud, violations of the Tennessee Consumer Protection Act ("TCPA") and conversion. (see *Complaint*, Counts I, II, IX, X and XI).

5. However, rather than taking aim with precision against the alleged wrongdoer, FCG pleads generally against all Defendants, particularly with regard to what it refers to as the "Lowe's Individual Defendants," in an effort to suggest that someone from Lowe's was part of Shore's conspiracy to defraud his employer, FCG.

6. For instance, with regard to the alleged RICO violations and its claim of conspiracy, FCG asserts its claim against "All Defendants" in general. (see *Complaint*, Counts I and II). As for its claims of alleged fraud, TCPA violations and conversion that is said to involve Matthews, FCG's Complaint is no more specific, as these causes of action and purported allegations in support of the same are asserted against "Bingham, Chevrette, Johnson, Weber, Knowles and/or Matthews." (see *Complaint*, Counts IX, X and XI). FCG fails to allege facts that specify Matthews' connection to the alleged wrongdoing, but instead makes general and conclusory allegations against all Defendants.

7. Not only that, and more importantly, FCG has failed to make specific, factual allegations against Matthews and has failed to state a claim against him upon which relief can be granted, based on the causes of action asserted in this matter.

8. Particularly, the claims and causes of action involving RICO, conspiracy, fraud and

the TCPA are all premised upon and based in alleged fraud. Therefore, FCG is required to plead specific facts, particular to each Defendant, specifying the “who, what, when, where and how” of the alleged fraudulent conduct. *See McCoy v. East Tennessee Luxury Coach, LLC*, 2024 WL 4916367 (E.D. Tenn. Nov. 6, 2024); *Greer v. Strange Honey Farm, LLC*, 114 F.4<sup>th</sup> 605, 615 (6<sup>th</sup> Cir. 2024).

9. However, FCG has failed to articulate its claims and causes of action against Mathews with the requisite particularity and specificity. Although FCG has included buzzwords and conclusory statements in its Complaint to try and capture the elements of its causes of action, FCG has failed to set forth sufficient factual averments as required by Rules 9(b), 12(b)(6) and the pertinent legal authority with regard to the causes of action asserted against Mathews. Therefore, FCG has failed to state a claim against Mathews upon which relief can be granted for alleged RICO violations, conspiracy, fraud and TCPA violations. Moreover, FCG’s TCPA claim is barred by the applicable one-year statute of limitations. *See Tenn. Code Ann. § 47-18-110*.

10. As for its conversion claim, that cause of action fails too because FCG has not alleged that any money was entrusted to Mathews; nor has FCG alleged that Mathews wrongfully acquired or misapplied a definitive sum of money belonging to FCG. Rather, all FCG alleges – again in conclusory fashion – is that it paid Lowe’s for materials that might have been unnecessary for its projects or at artificially high prices. As a result, FCG has failed to state a claim against Mathews for conversion upon which any relief can be granted and it too should be dismissed.

11. In further support of this Motion, Defendant Mathews contemporaneously files his Brief and Memorandum of Law and adopts and incorporates the same herein by reference

pursuant to Rule 10(c) of the *Federal Rules of Civil Procedure*.

**WHEREFORE**, premises considered, pursuant to the authority set forth herein and in the accompanying memorandum, Defendant Matthews prays that the instant Motion to Dismiss be granted and that Plaintiff's Complaint against him be dismissed with prejudice.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed this document along with any exhibits with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorneys of record:

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